

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

**S.A.T. 193 of 2022
With
CAN 1-2 of 2022**

**Avijit Roy
Vs.
Santisudha Das and Ors.**

**Mr. Pinaki Ranjan Mitra
Ms. Gargi Acharyya** ... For the Appellant.

**Mr. Sankha Subhra Ray
Mr. A. Dey** ... For the Respondents.

Re: CAN 1-2 of 2022

This intended second appeal is delayed by more than 1000 days.

The impugned judgement and decree of the first appellate court was one of remand. After remand of the matter, we are told by learned counsel for the respondents that the learned trial judge has tried and determined the suit. Thereafter, when the decree has gone against him, the appellant is tried his luck by filing this second appeal against the order of remand.

The cause shown for this inordinate delay is far for sufficient. In any case, the conduct of the appellant is not appreciated by the court.

S.D.

We do not find any reason to entertain the application (CAN 1 of 2022) for condonation of delay under Section 5 of the Limitation Act, 1963.

Accordingly, the application (CAN 1 of 2022) is dismissed.

Considering the fair submissions made by learned counsel for the appellant, the appellant is granted time to vacate the subject premises by 30th September, 2023 and the execution proceedings shall not be proceeded with subject to the following conditions:

1. The appellant will continue to pay occupation charges at the rate of Rs.2000/- p.m. payable by the seventh of each month in advance till he vacates the premises.
2. In default of payment any occupation charges the respondent shall be at liberty to execute the decree
3. If the appellant does not vacate the premises by 30th September, 2023, the respondent shall be at liberty to forthwith execute the decree as well as take steps in the contempt jurisdiction of our court.

The appeal (SAT 193 of 2022) and the connected application (CAN 2 of 2022) are disposed of accordingly.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

